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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 2002P01289WOUS			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ eFiled Signature _____ Typed or printed name _____	Application Number 10/537,421		Filed 12/14/2007		
	First Named Inventor Thomas Baumgartner et al				
	Art Unit 1711		Examiner Jason Mark Heckert		
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top; padding-bottom: 10px;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input type="checkbox"/> attorney or agent of record. Registration number _____</p><p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 62,246</p></td><td style="width: 50%; vertical-align: top; padding-bottom: 10px; border-left: 1px solid black;"><p style="text-align: right;">/Andre Pallapies/</p><hr style="border: none; border-top: 1px solid black;"/><p style="text-align: right;">Signature</p><p style="text-align: right;">Andre Pallapies</p><hr style="border: none; border-top: 1px solid black;"/><p style="text-align: right;">Typed or printed name</p><p style="text-align: right;">252-672-7927</p><hr style="border: none; border-top: 1px solid black;"/><p style="text-align: right;">Telephone number</p><p style="text-align: right;">March 15, 2011</p><hr style="border: none; border-top: 1px solid black;"/><p style="text-align: right;">Date</p></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 62,246</p>	<p style="text-align: right;">/Andre Pallapies/</p> <hr style="border: none; border-top: 1px solid black;"/> <p style="text-align: right;">Signature</p> <p style="text-align: right;">Andre Pallapies</p> <hr style="border: none; border-top: 1px solid black;"/> <p style="text-align: right;">Typed or printed name</p> <p style="text-align: right;">252-672-7927</p> <hr style="border: none; border-top: 1px solid black;"/> <p style="text-align: right;">Telephone number</p> <p style="text-align: right;">March 15, 2011</p> <hr style="border: none; border-top: 1px solid black;"/> <p style="text-align: right;">Date</p>
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<input type="checkbox"/> *Total of _____ forms are submitted.					

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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**STATEMENT OF ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF
REQUEST FOR REVIEW**

Claims 6-14 are pending in the application. Claims 6 and 12 are independent.

The Rejections under 35 U.S.C. § 102(b)

The Rejections under 35 U.S.C. § 102(b) based on Choi

Claims 15-17, and 25-29 stand rejected under 35 U.S.C. § 102(b) as anticipated by Choi (U.S. Patent no. 5,795,052). Applicants traverse these rejections.

Independent claim 6, rejected under 35 U.S.C. § 102(b) as anticipated by Choi, recites, *inter alia*, a dishwashing machine, including a door pivotable about its horizontal axis and a switch arranged on the door, operable to generate an electric signal when a predetermined pivoting angle of the door is reached as the door is being opened.

Choi does not disclose this combination of features. With respect to these features, the grounds of rejection allege that "[Choi] includes a door pivotable about a horizontal axis, a switch 5 of which at least one portion is located inside the door[.]" Applicants disagree with the interpretation of Choi as described in the grounds of rejection. The switch disclosed in Choi is in no way located on or inside the door. In Choi, switch 5a is located on the main body 1 of the washing machine, and not on the door 7 of the washing machine. Thus, Choi does not disclose a switch arranged on the door, as recited in claim 6. The Response to Arguments states that magnet 5a is located on the door. However, this is not similar to the switch itself.

Furthermore, Choi teaches away from a switch that is operable to generate an electric signal when a predetermined pivoting angle of the door is reached as the door is being opened. As disclosed *supra*, the reed switch of Choi is "switched by a magnetic force of the magnet 5a," and "the magnet 5a is separated from the reed switch 5b by a constant distance, thereby operating the reed switch 5b" Choi, col. 1, lines 56-62. Thus, the switch disclosed in Choi is not operable as a function of the pivoting angle of the door, as recited in claim 6.

For at least the foregoing reasons, Applicants submit that claim 6 is not anticipated by Choi. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 6 under 35 U.S.C. § 102(b) based on Choi, and ask that the claim be permitted to issue.

Claims 7-9 depend from independent claim 6. Therefore, Choi does not anticipate claims 7-9 for at least the reasons given above with respect to claim 6. Moreover, claims

7-9 are patentable over Choi for reasons of their own. For example, claim 8 recites the dishwashing machine according to claim 6, wherein the switch is arranged inside the door. Choi neither discloses nor teaches this feature of claim 8 for the reasons discussed above.

As another example, Choi does not disclose or teach a dishwashing machine including a door and a light source to illuminate the inner wall of the opened door, particularly to illuminate a crockery basket arranged on the door, as recited in claim 9. The grounds of rejection admit that Choi is a washing machine, and not a dishwasher, and furthermore the grounds of rejection allege that "applicant does not provide any limitations that contrast the 'dishwasher' from any other type of washer." Further, the Response to Arguments states that the lights of Choi are believed to be capable of illuminating the door to some degree. In addition, the door open state occurs at a set angle, which can be considered predetermined. As such, the grounds of rejection conclude that the claims of the instant application do not point to a structure or operation that is any different from Choi. Applicants respectfully submit that Choi does not disclose or suggest a light source to illuminate the inner wall of the opened door as claimed structure.

The Rejections under 35 U.S.C. § 103(a)

The Rejections under 35 U.S.C. § 103(a) based on Lamb

Claims 6-9 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Lamb (U.S. Patent no. 3,619,592). Applicants respectfully traverse the rejection.

Independent claim 6, rejected under 35 U.S.C. § 102(b) as anticipated by Lamb, recites, *inter alia*, a dishwashing machine including a switch arranged on the door, operable to generate an electric signal when a predetermined pivoting angle of the door is reached as the door is being opened. The grounds of rejection admit that Lamb does not disclose a switch located on the door. However, the grounds of rejection allege that "[r]elocating the switch is considered to be obvious, as it is a mere rearrangement of previously disclosed parts that fails to present unpredictable results." *Id.* Applicants disagree. As an initial matter, assuming *arguendo* that it would be obvious to a person of ordinary skill to locate a switch on the door of the dishwasher of Lamb, such a rearrangement of Lamb would still not disclose or teach a switch operable to generate an electric signal *when a predetermined pivoting angle of the door is reached* as the door is being opened, as recited in claim 6. The Response to Arguments incorrectly gives no weight to at least the term "predetermined" in the claim.

Furthermore, Lamb describes multiple configurations of the switch, none of which discloses or teaches a switch on the door operable to generate an electric signal *when a predetermined pivoting angle of the door is reached* as the door is being opened, as recited in claim 6. Rather, the multiple configurations of the switch disclosed in Lamb

teach away from a switch on the door and operable to generate an electric signal when a predetermined pivoting angle of the door is reached as the door is being opened at Lamb, col. 2, lines 35-48. In the first configuration, the pushbutton switch of Lamb is arranged to operate only by direct contact with the closed door, and not when a predetermined pivoting angle of the door is reached, as recited in claim 6. In the second configuration, the switch is incorporated in a knob on the exterior of the dishwasher, and operable in response to movement of the knob, not in response to the door reaching a predetermined pivoting angle, as recited in claim 6. Thus, Lamb not only fails to teach or imply a switch arranged on the door, operable to generate an electric signal when a predetermined pivoting angle of the door is reached as the door is being opened, as recited in claim 6, Lamb teaches away from such a switch.

Claims 7-9 depend from claim 6. Therefore, claims 7-9 are patentable over Lamb for at least the reasons given above with respect to claim 6.

Moreover, claims 7-9 are patentable over Lamb for reasons of their own. For example, claim 8 recites the dishwashing machine according to claim 6, wherein the switch is arranged inside the door. Lamb neither teaches nor implies this feature of claim 8. The grounds of rejection admit that Lamb does not disclose a switch located on the door. However, the grounds of rejection allege that "[r]elocating the switch is considered to be obvious, as it is a mere rearrangement of previously disclosed parts that fails to present unpredictable results." Applicants disagree. As an initial matter, assuming *arguendo* that it would be obvious to a person of ordinary skill to locate a switch inside the door of the dishwasher of Lamb, such a rearrangement of Lamb would still not disclose or teach a switch operable to generate an electric signal *when a predetermined pivoting angle of the door is reached* as the door is being opened, as recited in claim 6.

Furthermore, Lamb describes multiple configurations of the switch, none of which discloses or teaches a switch inside the door operable to generate an electric signal *when a predetermined pivoting angle of the door is reached* as the door is being opened, as recited in claim 6. Rather, similar to that discussed *supra*, the multiple configurations of the switch disclosed in Lamb teach away from a switch inside the door and operable to generate an electric signal when a predetermined pivoting angle of the door is reached as the door is being opened.

For the purpose of illuminating the interior of the tub or washing chamber when the door is open, a *pushbutton switch 38* is provided in the front frame *for engagement by the door* and this switch will be connected in the energization circuit of the bulb to close the same upon opening of the door. The basic open door interior illumination is thus automatic.

Another switch, not shown, can be incorporated in the circuit responsive to *actuation of the control knob 37* to

turn the light on also whenever the knob is moved to a machine operating position. With this added control, the light then indicates to a user when the machine is running and can, furthermore, render more visible the setting of the control knob, with the latter usually turning from an adjusted on to an off position progressively as the operating cycle proceeds.

Lamb, col. 2, lines 35-48 (emphasis added). In the first configuration, the pushbutton switch of Lamb is arranged to operate only by direct contact with the closed door, and not when a predetermined pivoting angle of the door is reached, as recited in claim 6. In no way could the pushbutton switch of Lamb, even if it were located inside the door, be operable when a predetermined pivoting angle of the door is reached, as recited in claim 6. In the second configuration, the switch is incorporated in a knob on the exterior of the dishwasher, and operable in response to movement of the knob, not in response to the door reaching a predetermined pivoting angle, as recited in claim 6. Thus, Lamb not only fails to teach or imply a switch arranged inside the door, operable to generate an electric signal when a predetermined pivoting angle of the door is reached as the door is being opened, as recited in claim 6, but Lamb teaches away from such a switch. Thus, Applicants assert that claim 8 is patentable under 35 U.S.C. § 103(a) over Lamb.

For at least the foregoing reasons, Applicants submit that claims 7-9 are patentable under 35 U.S.C. § 103(a) over Lamb. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 7-9 under 35 U.S.C. § 103(a) based on Lamb, and ask that the claims be permitted to issue.

The Rejections under 35 U.S.C. § 103(a) based on Choi or Lamb and Thompson et al.

Claims 10 and 11 stand rejected under 35 U.S.C. 103(a) as unpatentable over Lamb or Choi and further in view of Thompson et al. (US 4,894,643). As discussed *supra*, independent claim 6, from which claims 10 and 11 depend, is neither anticipated nor taught by either Choi or Lamb. Thompson discloses an alarm system arranged to be actuated upon leaving a door to an appliance open longer than a preselected period of time. The addition of Thompson does not overcome the failure of Choi or Lamb to teach the features of claim 6, from which claims 10 and 11 depend. Therefore, claims 10 and 11 are patentable over Choi or Lamb in view of Thompson for at least the reasons given above with respect to claim 6. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 10 and 11 under 35 U.S.C. § 103(a) as unpatentable over Choi or Lamb in view of Thompson, and ask that the claims be permitted to issue.

Claims 12 - 14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Burnett in view of Lamb. Applicants respectfully traverse this rejection.

The grounds of rejection acknowledge that the lights of Burnett are not located in the interior of the washing machine, but state that Lamb discloses a light source 30 that is located in the interior of the machine and that it would have been obvious at the time of invention to modify Burnett, and relocate the lights, or add new lights, to the interior of the machine, as disclosed by Lamb, in order to illuminate the crockery when the door is open.

Assuming arguendo, neither Burnett nor Lamb (for the reasons discussed above) disclose or suggest the claimed switch of claim 12. Claims 13 and 14 are allowable at least based on their dependence on claim 12.

CONCLUSION

In view of the above, reconsideration and allowance of claims 6-14 are respectfully requested. If there are any questions, kindly contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.